

Remarks

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

Office Action Summary

Applicant respectfully informs the Examiner that the list of rejected claims found in item 6 of the Disposition of Claims section of the Office Action Summary includes claims that the Examiner has listed as withdrawn from consideration in item 4a. Applicant addresses only those claims specifically rejected in the Detailed Action section of the Office Action.

Additionally, claim 21 was not listed in the Office Action Summary. Applicant believes the Examiner withdrew claim 21 because it depends from independent claim 13 which was withdrawn by the Examiner.

Specification

As shown above, Applicant has amended the specification to incorporate the corrections recommended by the Examiner.

Election/Restrictions

The Examiner required Applicant to restrict the examination to one of the following groups:

- I. Claims 1-4, 9-12, 18 and 20 drawn to an ambulance with a gurney.
- II. Claims 5-8 and 19, drawn to a gurney with an extender.
- III. Claims 13-17, drawn to a gurney with a hydraulic lift.

Applicant confirms the selection with traverse of Group I claims 1-4, 9-12, 18, and 20 previously made during a phone conversation with the Examiner. Applicant respectfully submits that claims 1-21 could be examined together without imposing an

undue burden. As stated in § 803 of the Manual of Patent Examining Procedure, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to independent or distinct inventions.” As the Examiner noticed in each group mentioned above, all are drawn to a gurney. Each is also directed to the problem of transporting patients.

Additionally, the Examiner considers ambulances and gurneys to be analogous art. The Examiner states in item 13 that “Malling and Schilling et al. are analogous art because they are from a similar problem solving area, i.e., transporting patients.” A review of these patents indicates that Malling is drawn to stretcher bearing vehicles and stretchers, while Schilling is drawn to only a stretcher.

Again, in item 14, the Examiner states that “Malling and Bourgraf et al. are analogous art because they are from a similar problem solving area, i.e., transporting patients.” The Examiner additionally acknowledges that “Malling discloses the ambulance” and “Bourgraf et al. disclose a gurney . . .” The Examiner’s demonstrated ability to find and combine these “analogous” patents to reject claims suggests that the inclusion of the Group II and Group III claims in the present application should not impose an undue burden on the Examiner’s search and examination of the application. Therefore, Applicant respectfully requests that the restriction be withdrawn and the application be reviewed in its entirety.

Claim Rejections – 35 USC § 103

In item 12 of the Office Action, independent claim 1 and its dependent claim 2, and independent claim 9 and its dependent claim 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Malling (U.S. Patent No. 2, 387,082). In traversal, the Applicants submit that a *prima facie* case of obviousness has not been established because there has been shown no teaching, suggestion or motivation to modify the cited reference in the manner that has been asserted in the Office Action to be obvious.

Moreover, the Applicants submit that, when properly considered, the only suggestion of the presently claimed invention is provided by the present application.

In order to establish a *prima facie* case of obviousness, the Patent Office has the initial burden of identifying in the prior art some teaching, suggestion or motivation to modify the cited reference. Furthermore, the prior art must be taken only for what it would teach or suggest to a person of ordinary skill in the art at the time of the invention, without using impermissible hindsight. Moreover, “it is impermissible within the framework of section 103 to pick and choose from any one reference only so much as it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such references fairly suggests to one of ordinary skill in the art.” *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965).

The cited references fail to disclose or suggest all of the features as recited in independent claim 1. The Examiner states “Malling discloses the winch mounted to the ramp, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a motorized winch mounted to the floor of the vehicle at the front of the compartment. The motivation would have been to allow the motor to do the work of moving the gurney up the ramp and to simplify the mounting of the winch (it would not have to be reconnected every time the ramp was removed and replaced).”

Applicant respectfully submits that Malling teaches away from the Examiner’s proposal. Malling states in the patent at Column 1, lines 6-10, “More particularly, the present invention relates to a novel dismountable stretcher loading and carrying track device which is adapted to be *quickly mounted and dismounted from any* vehicle of the character aforesaid . . . ” (emphasis added). Malling also specifically describes the invention in the claims as “An apparatus for converting a conventional vehicle into a stretcher-bearing ambulance, said apparatus being adapted to be *temporarily* connected to the floor of the vehicle. . . ” (emphasis added). To mount the winch in the vehicles so that “it would not have to be reconnected every time the ramp was removed and replaced” as proposed by the Examiner contradicts the teaching of Malling.

Without the benefit of hindsight gained from viewing the present application, one of ordinary skill in the art at the time of the invention would not have modified the cited references as asserted in the Office Action to arrive at the invention as recited in the present claim 1. For this and other reasons, the Applicants respectfully submit that independent claim 1 along with its respective dependent claim 2 are allowable over the reference of record and request that the rejection of these claims under 35 U.S.C. § 103 be withdrawn.

In rejecting claim 9, the Examiner stated, "it would have been obvious to one of ordinary skill in the art at the time of the invention to use the gurney with the winch of claim 1." Because claim 1 is allowable for the reasons stated above, Applicants respectfully submit that independent claim 9 and its dependent claim 10 are also allowable and request that the rejection of these claims under 35 U.S.C. § 103 be withdrawn.

In item 13 of the Office Action, dependent claims 3, 4, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Malling (U.S. Patent No. 2, 387,082) in view of Schilling et al. (U.S. Patent No. 5,522,100). Claims 3 and 4 depend from independent claim 1 which is allowable for at least the reasons stated above.

Claim 12 depends from independent claim 9 which is allowable for at least the reasons stated above. Therefore, Applicants submit that claims 3, 4 and 12 are allowable and request that the rejection of these claims under 35 U.S.C. § 103 be withdrawn.

Additionally, the Applicants submit that a *prima facie* case of obviousness has not been established because there has been shown no teaching, suggestion or motivation to modify the cited reference in the manner that has been asserted in the Office Action to be obvious. Moreover, the Applicants submit that, when properly considered, the only suggestion of the presently claimed invention is provided by the present application.

In item 14 of the Office Action, claims 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Malling (U.S. Patent No. 2, 387,082) in view of Bourgraf et al. (U.S. Patent No. 3,918,554). Claim 18 depends from claim 1 and claim 20 depends from claim 9. Thus claims 18 and 20 depend from allowable independent claims.

Additionally, in traversal, the Applicants submit that a *prima facie* case of obviousness has not been established because there has been shown no teaching, suggestion or motivation to modify the cited reference in the manner that has been asserted in the Office Action to be obvious. Moreover, the Applicants submit that, when properly considered, the only suggestion of the presently claimed invention is provided by the present application.

For example, the Examiner states “Bourgraf et al. disclose a gurney with a safety bar (left side of cot(4) in Fig. 1) that is fixedly but removably mounted to the gurney. . . . It would have been obvious to make it removable . . .” Applicant respectfully disagrees with this suggestion. Bourgraf does not describe the component in the patent nor does Bourgraf suggest that the component be movable or removable. Therefore, the cited references fail to explicitly or implicitly provide any teaching, suggest or motivation to arrive at the invention recited in claims. For this and other reasons, the Applicants respectfully submit that claims 18 and 20 are allowable and request that the rejection of these claims under 35 U.S.C. § 103 be withdrawn.

Double Patenting

In item 15, the Examiner objects to claim 4 as being a substantial duplicate of claim 3. Applicant respectfully points out the particular language between the claims:

Claim 3 states “The bariatric gurney arrangement of claim 1 additionally comprising a flat sheet mounted on said gurney for supporting a patient *and an extender mounted on the gurney adjacent said flat sheet*, said flat extender being fixable in a horizontal position to increase the support area of the flat sheet, and said

extender being fixable in a vertical position to make more narrow the width of the gurney.”

Claim 4 states “The bariatric gurney arrangement of claim 1 additionally comprising a flat sheet mounted on said gurney for supporting a patient *said flat sheet having opposite sides, a pair of extenders mounted on the gurney on the opposite side of said flat sheet for supporting the patient*, said extenders being fixable in a horizontal position to increase the support area of the flat sheet, and said extender being fixable in a vertical position to make more narrow the width of the gurney.”

Applicant respectfully submits that the differences between claim 3 and claim 4 is more readily apparent and respectfully requests that the double patenting objection be withdrawn.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is earnestly solicited. If after reviewing this amendment the Examiner feels that any issues remain which must be resolved before the application can be passed to issue, the Examiner is invited to contact the applicants’ undersigned representative by telephone to resolve such issues.

Respectfully submitted,

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